

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH ALLEN RUSSELL,

Plaintiff,

Case No. 10-cv-14824

v.

Paul D. Borman
United States District Judge

LINDA TRIBLEY, et al.,

Defendants.

Paul J. Komives
United States Magistrate Judge

OPINION AND ORDER ADOPTING THE MAGISTRATE JUDGE'S AUGUST 10, 2011
REPORT AND RECOMMENDATION (DKT. NO. 50) AND GRANTING DEFENDANTS'
MOTIONS FOR SUMMARY JUDGMENT (DKT. NOS. 20 AND 24)

Before the Court is Magistrate Judge Paul J. Komives August 10, 2011 Report and Recommendation (1) GRANTING the MDOC Defendants' Motion for Summary Judgment (Dkt. No. 20); (2) DENYING Plaintiff's Petition for a Stay (Dkt. No. 22); (3) GRANTING the PHS Defendants' Motion to Dismiss (Dkt. No. 24); (4) DENYING Plaintiff's Motion for Default Judgment (Dkt. No. 34); (5) DENYING Plaintiff's Motion for Preliminary Injunction (Dkt. No. 39); and (6) DENYING Plaintiff's Motion for Jury Trial with Directions to the Clerk of the Court to designate the case as a jury action on the docket in accordance with Fed. R. Civ. P. 39. Although the Magistrate Judge's Report and Recommendation directed the parties to file objections within 10 days of service of the Report and Recommendation, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal and

releases this Court from its independent obligation to review the parties' motions for summary judgment. *See Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987) and *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, having reviewed the Report and Recommendation and there being no timely objections from either party under 28 U.S.C. § 636(b)(1) and E.D. Mich L. R. 72.1(d), the Court ADOPTS the Magistrate Judge's Report and Recommendation (Dkt. No. 50), and:

- (1) GRANTS the MDOC Defendants' Motion for Summary Judgment (Dkt. No. 20);
- (2) DENIES Plaintiff's Petition for a Stay (Dkt. No. 22);
- (3) GRANTS the PHS Defendants' Motion to Dismiss (Dkt. No. 24);
- (4) DENIES Plaintiff's Motion for Default Judgment (Dkt. No. 34);
- (5) DENIES Plaintiff's Motion for Preliminary Injunction (Dkt. No. 39); and
- (6) DENIES Plaintiff's Motion for Jury Trial.¹

The Court hereby DISMISSES the case with prejudice against the moving Defendants and DISMISSES the case against all remaining unserved Defendants. This Order closes this case.

IT IS SO ORDERED.



PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated:

9-21-11

¹ The Court directs the Clerk of the Court to technically designate the case as a jury action on the docket in accordance with Fed. R. Civ. P. 39, but this does not disturb the grant of Defendants' motions for summary judgment or the Court's dismissal of the case against all remaining unserved Defendants.